IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

NOTICE OF MOTION NO.3165 OF 2005
IN
APPEAL NO.904 OF 2005
IN
SUMMONS FOR JUDGMENT NO.1001 OF 2003
IN
SUMMARY SUIT NO.2099 OF 2003

Tiwary Bechar & Company Ltd. Appellants
vs.
Tata Motors Ltd. Respondents

Mr.Shailesh Shah with Mr.Narayan Sahu
i/b.M/s.S.K.Srivastava & Co. for the appellants.

Mr.Virag Tulzapurkar with Mr.C.S.Balsara & Mr.Rahul
Mehta i/b.M/s.Mulla & Mulla for the respondents.

CORAM : R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED : 10th January 2006

P.C.

Heard.

2. Though we have admitted the appeal, we are not inclined to stay the order. It is so because prima facie it appears to us that on the basis of the document dated 27th June 2003 (Annexure A at page 12) the appellant has confirmed that as per their books of account (defendant's book of account) the credit balance as on 27th June 2003 is Rs.52,33,580.92 (Rupees fifty two lacs thirty three thousand five hundred eighty and ninety two paise). In view thereof, even if the Suit is tried as a regular Suit under Order XII Rule 6, the plaintiff shall be entitled to decree on admission to the extent of Rs.52,33,580.92. We, therefore, are not inclined to stay the order.

3. Further time upto 15th February 2006 is granted to the appellants to deposit the amount of Rs.50,00,000/- (Rupees Fifty lacs) before this Court as directed in the impugned order.

4. Notice of motion is disposed of accordingly.

(R. M. LODHA, J.)

(ANOOP V. MOHTA, J.)